

7/21/08

E-19J

Mr. Howard Hime
Chief, Office of Standards Evaluation and Development
U.S. Coast Guard
2100 Second Street, S.W.
Washington, D.C. 20593-0001

Re: Comments on the U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges
in the Great Lakes Draft Environmental Impact Statement (DEIS), No. 20080203

Dear Mr. Hime:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the United States Environmental Protection Agency (U.S. EPA) Region 5 has reviewed the U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes Draft Environmental Impact Statement (DEIS) and the associated Notice of Proposed Rulemaking dated May 28, 2008, referred to here as the Dry Cargo NPRM.

The DEIS provides an assessment of the potential environmental impacts associated with the proposed regulation of dry cargo residue (DCR) in the Great Lakes. DCR is the residual material left on deck when non-toxic or non-hazardous cargos such as limestone, iron ore or coal are loaded or unloaded onto ship decks or within ship loading tunnels. To avoid cross-contamination and address safety risks to crew members, Great Lakes shippers periodically wash the decks with water. Ships typically have conducted this wash-down of the decks while transiting between ports. The U.S. Coast Guard currently regulates DCR sweepings under an Interim Enforcement Policy (IEP) which will expire on September 30, 2008.

The U.S. EPA, as a cooperating agency, has assisted the Coast Guard with defining the purpose and need of the project, determining the range of alternatives, and scoping the environmental analysis documented in the DEIS.

The current IEP allows the discharge of DCR in specified areas of the Great Lakes. Discharges are allowed a set distance from shore depending on the DCR that is swept overboard. These distances were established in 1993 in consultation with affected federal and state resource agencies. The existing IEP includes provisions for voluntary recordkeeping. The preferred alternative would adopt the IEP as the Coast Guard rule for DCR with mandatory recordkeeping and reporting. The recordkeeping provision was

included to address insufficient data on control measures and costs to implement them. Other substantive additions to the IEP would be to encourage the use of shipboard and shoreside control measures, along with restrictions to prevent sweeping in protected and sensitive areas.

The DEIS concludes that minor adverse effects to the environment would occur with the implementation of the preferred alternative. We have no objections to that finding. Additionally, we concur with the approach used in the Dry Cargo NPRM which extends restrictions in 13 special areas, imposes new recordkeeping requirements on carriers, and encourages voluntary adoptions of control measures for reducing the accumulation and overboard disposition of DCR. We understand that the Coast Guard intends to simultaneously finalize the May 23, 2008 proposed rule and announce the opening of a new rulemaking to consider additional steps to reduce the environmental impact of continued DCR discharges. We agree that more research should be conducted to ascertain economic costs and benefits of various control measures. In the meantime, we agree that the Great Lakes carriers should be encouraged to use best management practices in order to minimize the amount of DCR discharged into the Great Lakes. The Great Lakes are a valuable resource, and we support measures to ensure the continued health of the largest surface freshwater system on Earth.

Based on our review of the information provided in the DEIS and May 23, 2008 NPRM, we have rated the DEIS as LO (Lack of Objections). We have enclosed a summary of U.S. EPA's rating system under NEPA.

Thank you for the opportunity to comment on the DEIS for this project. We look forward to ongoing work on this issue. If you have any questions, please contact me at (312) 886-2910. The staff person assigned to this project is Sherry Kamke; she can be reached at (312) 353-5794 or via email at kamke.sherry@epa.gov.

Sincerely yours,

/s/ by Anna Miller for

Kenneth A. Westlake, Supervisor
NEPA Implementation
Office of Enforcement and Compliance Assurance

Enclosure - U.S. EPA's Summary of NEPA Rating Definitions and Follow-up Actions

SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION*

Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impacts. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS site, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1-Adequate

The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collecting is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for the EPA to fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment